

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

POLYMER80, INC.,

Plaintiff,

v.

MERRICK GARLAND, in his official capacity as Attorney General of the United States; UNITED STATES DEPARTMENT OF JUSTICE; STEVEN DETTELBACH, in his official capacity as Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives; and BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES,

Defendants.

Case No. 4:23-cv-00029-O

**DEFENDANTS' MOTION FOR EXPEDITED BRIEFING SCHEDULE ON
DEFENDANTS' MOTION TO DISMISS COMPLAINT FOR IMPROPER VENUE OR,
IN THE ALTERNATIVE, TO TRANSFER VENUE**

Defendants respectfully file this Motion for Expedited Briefing Schedule on Defendants' Motion to Dismiss Complaint for Improper Venue or, in the Alternative, to Transfer Venue, ECF No. 12 ("Dismissal/Transfer Motion"). Defendants request that this Court enter an order requiring Plaintiff Polymer80, Inc. ("Plaintiff") to respond to the Dismissal/Transfer Motion on or before March 15, 2023, and setting a deadline of March 20, 2023, for Defendants to submit a reply in support of the Dismissal/Transfer Motion. Plaintiff's counsel has informed Defendants' counsel that Plaintiff opposes this motion and believes the Dismissal/Transfer Motion should be briefed on the Court's default schedule for motions practice.

On March 7, 2023, Defendants filed the Dismissal/Transfer Motion, asking this Court to dismiss Plaintiff's Complaint for improper venue pursuant to Federal Rule of Civil Procedure 12(b)(3), or alternatively, to transfer this case to the U.S. District Court for the District of Nevada pursuant to 28 U.S.C. § 1404(a). *See generally* Dismissal/Transfer Motion. Later that day, Plaintiff filed a Motion for Temporary Restraining Order and Preliminary Injunction, ECF No. 14 ("TRO/PI Motion"), and Plaintiff also filed a motion for expedited briefing on the TRO/PI Motion, ECF No. 17. On March 8, 2023, the Court entered an order setting a briefing schedule for the TRO/PI Motion, requiring Defendants to respond to the TRO/PI Motion no later than March 15, 2023, and setting a deadline of March 20, 2023, for Plaintiff to file a reply. ECF No. 18.

Defendants ask that this Court set a briefing schedule for the Dismissal/Transfer Motion that parallels the briefing schedule for the TRO/PI Motion. In opposition to the TRO/PI Motion, Defendants intend to argue, among other things, that this Court cannot and should not grant any preliminary relief because venue is improper in this Court, and convenience and the interest of justice favor transfer. Aligning the briefing schedules for the two motions will ensure that Defendants' venue and transfer arguments are fully briefed when the Court considers Plaintiff's request for preliminary relief.

Granting this relief will not prejudice Plaintiff. Given that Plaintiff represented to the Court that it was prepared to file a reply brief in support of its TRO/PI Motion one day after receiving Defendants' response brief, *see* ECF No. 17, at 2, the briefing schedule Defendants propose provides sufficient time for Plaintiff to respond.

Defendants respectfully request that the Court grant this motion and set an expedited briefing schedule for Defendants' Dismissal/Transfer Motion.

DATED: March 8, 2023

Respectfully submitted,

BRIAN M. BOYNTON
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Director, Federal Programs Branch

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Assistant Director, Federal Programs Branch

/s/ Jeremy S.B. Newman

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CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1, I certify that counsel for Plaintiff (Jay Porter) and counsel for Defendants (Jeremy S.B. Newman and Daniel Riess) held a telephone conference on this motion on March 8, 2023. The motion is opposed. Despite good faith discussion, the parties were unable to come to agreement, as counsel for Plaintiff indicated that Plaintiff would oppose this motion.

/s/ Jeremy S.B. Newman

CERTIFICATE OF SERVICE

On March 8, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Jeremy S.B. Newman